

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5413-03
Bill No.: HB 2084
Subject: Crimes and Punishment; Criminal Procedure
Type: Original
Date: January 26, 2016

Bill Summary: This proposal modifies provisions related to first degree murder.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
General Revenue	(Could exceed \$296,212)	(Could exceed \$309,437)	(Could exceed \$313,603)
Total Estimated Net Effect on General Revenue	(Could exceed \$296,212)	(Could exceed \$309,437)	(Could exceed \$313,603)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 6 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
General Revenue	4 FTE	4 FTE	4 FTE
Total Estimated Net Effect on FTE	4 FTE	4 FTE	4 FTE

☒ Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Oversight was unable to receive some of the agency responses in a timely manner due to the short fiscal note request time. Oversight has presented this fiscal note on the best current information that we have or on prior year information regarding a similar bill. Upon the receipt of agency responses, Oversight will review to determine if an updated fiscal note should be prepared and seek the necessary approval of the chairperson of the Joint Committee on Legislative Research to publish a new fiscal note.

In response to similar legislation this year, (SB 590), officials at the **Office of the State Public Defender (MSPD)** assumed there are 84 juveniles currently serving life without parole. This legislation appears to give them a new hearing if their case isn't final for purposes of appeal. MSPD estimates 5 of the 84 cases would be eligible under this proposed legislation. MSPD would incur a minimum of \$15,000 times 5 cases for litigation costs. Plus MSPD would have to contract out these 5 cases to private attorneys for the sentencing phase at a cost of approximately \$5,000 per case.

Assuming the MSPD provides representation in just 5 juvenile Murder 1st cases per year. The RubinBrown weight we used in our Budget Request was 85.9 for non-capital homicide, without taking into account travel or court time. Assuming an attorney can provide representation in just 3 of these types of cases per year, that is 693.3 hours (2080 / 3), which is 1.5 attorneys (3,035.5 / 2,080). At 3 cases per year, it would require an additional 1.5 attorneys. Plus, these estimated 5 new cases would also require at least \$15,000 of litigation costs.

In summary, the MSPD assumes the need for 1 Assistant Public Defender (\$51,096) and 3 FTE Legal Assistants (each at \$27,228). The fringe for the 4 FTE will be \$63,870 for the FY 2017. Equipment and Expense for FY 2017 will be \$191,448. The grand total cost for 4 FTE in FY 2017 will be \$365,968. FY 2018 will have a cost for the 4 FTE of \$309,437 and FY 2019 will be \$313,603. The reduction in cost for FY 2018 and 2019 from 2017 is mainly because of one time costs and counsel fees from FY 2017 that are not included in 2018 and 2019.

Oversight assumes the 4 FTE for fiscal years 2017, 2018 and 2019. However for FY 2017, section 565.033.3 states "...may, within six months of the effective date of this section , file a motion with the sentencing court for a hearing to review the person's sentence for murder in the first degree". This proposal does have an emergency clause, however, this section of the proposal will not be effective until 6 months afterwards. Oversight assumes costs for salary and fringes for FY 2017 at half of the yearly rate or \$104,764. Therefore, Oversight assumes FY 2017 total costs would be \$296,212.

ASSUMPTION (continued)

In response to similar legislation this year, (SB 590), officials at the **Office of the Attorney General** assumed that any potential costs arising from this proposal can be absorbed with existing resources.

In response to similar legislation this year, (SB 590), officials at the **Office of the State Courts Administrator**, the **Department of Corrections**, the **Department of Mental Health**, the **Department of Social Services** and the **Office of Prosecution Services** each assumed no fiscal impact to their respective agencies from this proposal.

Oversight also assumes that according to an article in the St. Louis Post Dispatch from January 25, 2016, the US Supreme Court ruled that people serving life terms for murders committed as teenagers must have a chance to seek their freedom. The justices on Monday, January 25, 2016, voted 6-3 to extend a ruling from 2012 that struck down automatic life terms with no chance of parole for teenage killers. Now, even those who were convicted long ago must be considered for parole or given a new sentence. Based on section 565.033.6 of this proposal not being in the original SB 590 and the new ruling by the US Supreme Court, the 5 cases per year that was estimated by MSPD could be exceeded. Therefore, Oversight will show a negative direct fiscal impact exceeding MSPD's estimate each year.

<u>FISCAL IMPACT - State Government</u>	FY 2017 (6 Mo.)	FY 2018	FY 2019
GENERAL REVENUE			
<u>Costs - State Public Defender</u>			
Personal Service	(\$66,390)	(\$134,108)	(\$135,449)
Fringe Benefits	(\$38,374)	(\$77,006)	(\$77,373)
Equipment and Expense of 4 FTE	(\$28,948)	(\$21,448)	(\$21,984)
One Time Litigation Costs	(\$75,000)	\$0	\$0
On Time Contract Counsel Costs	(\$25,000)	\$0	\$0
On-Going Litigation Costs	(\$62,500)	(\$76,875)	(\$78,797)
<u>Total Costs - State Public Defender</u>	<u>(\$296,212)</u>	<u>(\$309,437)</u>	<u>(\$313,603)</u>
FTE Change - State Public Defender	4 FTE	4 FTE	4 FTE
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	(Could exceed <u>\$296,212</u>)	(Could exceed <u>\$309,437</u>)	(Could exceed <u>\$313,603</u>)
Estimated Net FTE Change for the General Revenue Fund	4 FTE	4 FTE	4 FTE

FISCAL IMPACT - Local Government

FY 2017
(6 Mo.)

FY 2018

FY 2019

\$0

\$0

\$0

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

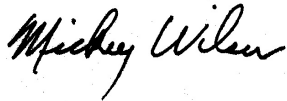
Currently, offenders who were under the age of 18 at the time they committed first degree murder must be sentenced to life imprisonment without eligibility for probation, parole, or conditional release. This act repeals the mandatory life sentence found to be unconstitutional in the United States Supreme Court case Miller v. Alabama. Under these provisions, a person 16 years of age or older at the time of the crime may be sentenced to either life imprisonment without parole or imprisonment for at least 40 years. A person who was under the age of 16 may be sentenced to imprisonment for at least 30 years or life without parole. Any person who was sentenced to life imprisonment without parole for a crime committed before the person turned 18 whose case is not final for purposes of appeal may, within six months of the effective date of the act, file a motion with the sentencing court for a review of the person's sentence. This act specifies that the new procedures for juvenile first degree murderers do not apply to cases that are final for purposes of appeal. The offense of murder in the first degree was added to the definition of "dangerous felony."

This act contains an emergency clause for the provisions regarding the penalty for first degree murder.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of the State Public Defender
Office of the Attorney General
Office of the State Courts Administrator
Department of Corrections
Department of Mental Health
Department of Social Services
Office of Prosecution Services



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Director
January 26, 2016

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Assistant Director
January 26, 2016